

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SIEMENS INDUSTRY, INC.,)	
)	
Plaintiff,)	
)	No. 1:13-cv-03080-RLV
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

JOINT MOTION TO FURTHER EXTEND STAY

The parties respectfully move the Court to further stay this case through February 28, 2014, in order that the parties may continue to work to resolve this matter before discovery.

Upon the parties' joint motion, the Court has graciously stayed this action until January 30, 2014, in order for the parties to endeavor to settle this case. (Doc. no. 45). As the parties advised the Court in its prior motion (Doc. no. 44), plaintiff seeks a refund of \$763,532 in tax and \$368,888 in assessed interest that plaintiff asserts was overpaid by its predecessor-corporation.

As the parties further pointed out in their joint motion, this case is complex. At issue are the tax effects of the arrangements to prepay

royalties on licenses to market software. If this case is not resolved, the parties will need to engage in broad and expensive discovery, both fact and expert. A trial would likewise be lengthy and costly.

To avoid a massive investment of both time and money, the parties have worked to resolve this case before discovery. Since filing their initial motion to stay, plaintiff's counsel and the Government's trial attorneys have negotiated settlement terms that, if accepted, will resolve this case. As the parties, pointed out in their initial stay motion, however, in cases arising under the Internal Revenue Code (26 U.S.C.), only the Attorney General "or his delegate" may compromise cases after they have been referred to the Department of Justice by the Secretary of Treasury. 26 U.S.C. § 7122(a). Delegations of that authority are set forth at 28 C.F.R. §§0.160, 0.161(b), and Part O, Subpart Y, Appendix, Tax Division Directive No. 139.

In order for the case to be formally settled, the Government's trial attorneys were required to solicit the recommendation of the Chief Counsel's office of the Internal Revenue Service. That recommendation has now been received. Additional time, however, is needed for the official with settlement authority to review the proposed settlement and

act on it.¹ We would, therefore, appreciate that the stay be extended to February 28, 2014.

Should the Court grant this motion, the parties will promptly advise the Court when the proposed settlement is acted upon. If for any reason the case is not settled, the stay may then be immediately lifted and discovery commenced. The Court's consideration is appreciated.

Dated: January 27, 2014

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¹ As noted in our original stay motion, the parties anticipate that official to be the Chief of the Tax Division's Office of Review.

I certify that this motion was prepared using Book Antiqua font, size 13.

s/ Michael N. Wilcove